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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,483	02/25/2002	Esteban Yopez III	29250/CE087111	4403
4743	7590	06/24/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			BLOUNT, STEVEN	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,483

Applicant(s)

YEPEZ ET AL

Examiner

Steven Blount

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 - 22, 24 - 26, 28 - 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 - 22, 24 - 26, 28 - 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 21 is objected to because in line 5, "priority determined" should read "priority is determined".

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21 – 22, 24 – 26, and 28 - 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Applicants Admitted Prior Art (hereinafter "AAPA") in view of PCT publication number WO 00/42789 to Galyas.

With regard to claim 21, AAPA teaches 1) a packet switching network (see page 1, second paragraph) 2) voice processing units in a transcoder that existed at a base site – see page 1, last sentence, to page 2, first sentence 3) the problem in the art that, in this system, "no discrimination is made between bypass mode calls and normal mode calls (eg, mobile to landline or vice versa) and, thus, normal calls requiring extra processing time for vocoding may be placed at the end of a fifo queue and transmitted after bypass calls requiring no decoding or encoding" (page 2, second paragraph) with its ultimate and unnecessary increased delay to the normal mode calls. AAPA does not, however, teach a solution to this problem to comprise using a prioritized queue (ie, through the use of a control processor that assigns a queue priority to the

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communication signal) in place of the fifo queue such that the priority levels with respect to delay in the queue are based on whether the signal is a standard call or a bypass call mode.

Galyas provides the basic teaching of selectively delaying packets through the use of memory queues 410 (figure 4B) such that packets which are less time sensitive ("eg, correspond to non-interactive speech" (page 2, lines 17+)) are placed in a higher delay class (page 5, lines 12+) and those that are less time sensitive are placed in a lower delay class (page 5, lines 15+). See also page 10, lines 21+: "providing multiple memory queues designated for one or more priority levels" and also page 9, lines 4+: "After identification, the different types may be assigned different levels of priority and subsequently queued so that they may forwarded at different times."

It would have been obvious to one of ordinary skill in the art at the time of the invention to have used a prioritized queue in AAPA in place of the fifo queue, and to have further prioritized the levels with respect to delay in the queue based on standard and bypass mode levels, in light of the teachings of Galyas, in order to give proper priority to normal mode calls such that their delay is not excessive relative to the bypass mode calls.

With regard to the following claims (hereinafter referred to as "CI") see the following:

CI 22: see page 10, line 9 (control flag).

CI 24: see the rejection of claim 23 immediately above.

CI 25: the elements are discussed above, including the control flag (see rejection of claim 22) and also see the mention of a fifo in the AAPA.

CI 26: the method steps are taught in the rejection of claim 21, including the prioritized queue. See also page 4, lines 20+, where bypass calls corresponding to a mobile to mobile call and standard mode calls corresponding to a mobile to landline call is discussed.

CI 28: see the rejection of claim 22.

CI 29: see the rejection of claim 21 where prioritized queues are discussed.

Response to Arguments

4. Applicant's arguments filed 4/8/2005 have been fully considered but they are not persuasive.

The examiner notes that encoding/decoding with respect to standard calls and also bypass calls is discussed in the AAPA. See page 1, lines 30+, to page 2, lines 8+. The examiner also notes that the teachings of Galyas are not restricted to interactive/non-interactive speech, as shown in the figure on the first page, where the words "LOWER – PRIORITY" are followed by (eg, non-interactive speech). Further, applicants statement "A device in accordance with the current disclosure prioritizes on a packets mode classification, not packet contents" is not convincing, because determining that the packet should be sent to the PSTN would almost certainly require that a portion of the data packet determine this; and further, the classification of the packet according to whether it is to be processed at a PSTN (requiring encoding and decoding) or a switched network (via bypass) is taught in AAPA, page 2, lines 5+.

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The examiner disagrees with applicants assertion that the combination of AAPA/Galyas requires impermissible hindsight. In Galyas the reason stated for using prioritized memory is to allow for packets that are more time sensitive to be processed more expediently than packets which are less time sensitive. This is the same problem found in the admitted prior art; that normal landline calls take longer to process than "bypass" calls (ie, network calls that do not require encoding/decoding).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Blount whose telephone number is 571 - 272 - 3071. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Chau Nguyen, can be reached on 571 - 272 - 3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB



6/20/05


Ajit Patel
Primary Examiner